



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kazuo KUBO et al.
Title: QUINOLINE DERIVATIVES AND
QUINAZOLINE DERIVATIVES
Appl. No.: 09/889,858
Filing Date: 07/23/2001
Examiner: Mark L. Berch, Ph.D.
Art Unit: 1624

#5
4/5/02
RECEIVED
MAR 26 2002
TECH CENTER 1600/2900

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the restriction requirement set forth in the Office Action mailed February 26, 2002, Applicants hereby provisionally elect Group II, Claims 1 – 47 for examination, with traverse.

The Examiner required restriction between Claims 1 – 47 (Group I), drawn to quinolines, Claims 1 – 47 (Group II), drawn to quinazolines, and Claims 1 – 3 and 48 – 52 (Group III), drawn to benzotriazines, a pharmaceutical composition, and methods of use thereof. The Examiner alleged that the inventions of Groups I – III lack any corresponding special technical feature because of the different heterocyclic rings defined for each Group. Furthermore, the Examiner evidently deems the pharmaceutical composition and methods of use, as claimed in claims 48 – 52, to be germane only to Group III.

Applicants respectfully disagree. The Examiner should include claims 48 – 52 with the elected invention of Group II. The only reason proffered by the Examiner for lack of unity is the differing heterocyclic cores between each Group. It does not necessarily follow, however, that there is lack of unity between a compound, its pharmaceutical composition, and methods of using it. The Examiner gives no reason why claims 48 – 52 are omitted from Groups I and II, even though he sees fit to find

no lack of unity between the benzotriazines, compositions, and methods of use of Group III.

Claims 48 – 52 relate to a pharmaceutical composition and methods of use of compounds of Claim 1, which encompasses the elected quinazolines of Group II. Therefore, Applicants submit that the Examiner's Restriction is improper within the meaning of PCT Rule 13.2.

For these reasons, Applicants courteously request the Examiner to include claims 48 – 52 with claims 1 – 47 of the elected invention. An early and favorable action on the merits also is requested.

Respectfully submitted,

Date 21 March 2002

By Stephen A. Bent

FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5143
Telephone: (202) 672-5404
Facsimile: (202) 672-5399

Stephen A. Bent
Attorney for Applicant
Registration No. 29,768